# DISABILITY AND COMMUNICATION ACCESS BOARD

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March 18, 2022

TESTIMONY TO THE HOUSE COMMITTEE ON HEATH, HUMAN SERVICES, AND HOMELESSNESS

Senate Bill 2034, Senate Draft 1 – Relating to Health

The Disability and Communication Access Board (DCAB) supports the intent of Senate Bill 2034, Senate Draft 1 Relating to Health. This bill requires assessment of patients who are subject to emergency hospitalization, diagnosed with a mental illness or substance abuse disorder, and found to be lacking decisional capacity to determine if a surrogate or guardian needs to be appointed to make health care decisions.

When an individual who is unable to make decisions and experiencing a medical crisis it can lead to additional disabilities and deteriorating health. A health care provider who has authority to assess and determine if a surrogate or guardian is needed, may need to intervene to ensure the safety and health of the patient, and stabilize the patient to resume making their own health care decisions.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

KIRBY L. SHAW
Executive Director

**SB2034 SD1 Substance Use and Mental Illness Lacking Decisional Capacity**
COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS
Rep. Ryan I. Yamane, Chair
Rep. Adrian K. Tam, Vice Chair
Friday, Mar 18 2022: 9:30 : Videoconference

## Hina Mauka supports SB2034 SD1:

*ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the CEO of Hina Mauka, providing services for substance use disorder and mental health including programs for prevention, adult addiction treatment, adolescent treatment, case management, and withdrawal management. Helping people on Oahu and Kauai.*

***This bill would allow psychiatrists or APRN having prescriptive authority to determine if a surrogate or guardian is needed to make health care decisions for a patient. It's a step in the right direction for people to receive the treatment they desperately need.***

*37 states now include chronic substance abuse and/or chronic mental health disorders to be included for psychiatrists or APRN having prescriptive authority for making decisions about treatment in some form or another. This bill defers decision making to surrogates or guardians.*

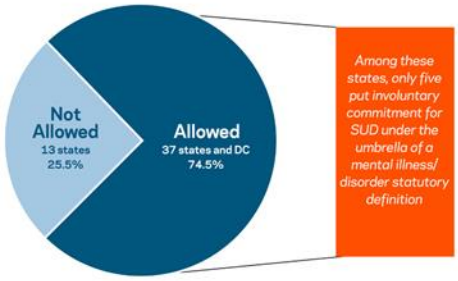

Figure 1. Legal Provision for Involuntary Commitment for Substance Use Disorders among U.S. states and DC (N=51)[1]

**For individuals with severe substance use disorder, several states are now implementing involuntary commitment laws for the first time or proposing changes to existing laws that would remove barriers to make commitment less difficult.**

**The substance abuse treatment gap between the need and access stems from stigma, the few number of available effective treatments and the inability of some individuals to seek treatment voluntarily**.[1]

[1] Hazelden Betty Ford Foundation: Involuntary Commitment for Substance Use Disorders: https://www.hazeldenbettyford.org/education/bcr/addiction-research/involuntary-commitment-edt-717

- Relatives and loved ones of an individual with a substance use disorder often feel helpless and disempowered when that individual is unable, due to an impaired brain, to make the rational decision to undergo and complete addiction treatment.
- Situations can escalate to the point where relatives and loved ones feel unsafe or are afraid that the individual with the substance use disorder is at great risk for overdose and/or death.
- Involuntary commitment laws for substance use disorder can be be a way to initiate the treatment these individuals need to avoid death and ultimately re-establish productive and healthy lives.

**What Does it Take for Civil Commitment?**

1. Casey's Law in Kentucky allows family members to exercise civil commitment if the disorder and risk have clearly grown severe and grave. It's allowed if the family can demonstrate a desperate situation such as after multiple overdoses and the loss of home, job, children, car, insurance, self-esteem and hope," Family members report "The only thing left to lose is their loved one's life. That is the right the family is trying to protect—their loved one's right to live."

2. Almost all states now allow a family member to petition the court to get an individual involuntarily committed to drug and alcohol addiction treatment. Most states allow a spouse, guardian, relative, medical professional or administrator of the treatment facility to petition the court for involuntary commitment. However, some states will allow a friend or any responsible person to petition, and in at least one state, police officers are allowed to do so.

**What Treatment is Best**. People with severe substance use disorder are often recommended residential treatment that can ultimately transition, or step down, to outpatient treatment and other lower levels of care. Such determinations are made by professionals based on criteria established by the American Society of Addiction Medicine.[2] Addiction is like other chronic illnesses in that the sooner it is recognized and the longer it is treated, the better the chances of recovery.

We appreciate the opportunity to provide testimony and are available for further questions.

[2] Mee-Lee, D. E. (2013). The ASAM criteria: Treatment criteria for addictive, substance-related, and co-occurring conditions. Rockville, MD: American Society of Addiction Medicine.

**SB-2034-SD-1**
Submitted on: 3/16/2022 10:24:17 AM
Testimony for HHH on 3/18/2022 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Louis Erteschik | Hawaii Disability Rights Center | Comments | Written Testimony Only |

Comments:

This proposal surfaced last session during discussions on HB310 as the legislature was looking for ways to provide treatment to individuals seen at emergency rooms. We are not necessarily opposed to the concept as we do believe it could help some of these people. That said, there are a lot of unanswered questions such as how long it would take to find a surrogate or guardian and whether there would be an attempt to hold the individual at the facility pending any further legal proceedings. It could be a lengthy process so these are very relevant considerations. We are not sure that these provisions of the law have been used in this context previously and that adds to the uncertainty. So, if this bill advances we hope to learn more and would be happy to be a part of a constructive dialogue.

THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Ryan I. Yamane, Chair
The Honorable Adrian K. Tam, Vice Chair
Members, House Committee on Health, Human Services, & Homelessness

From: Jacce S. Mikulanec, Director, Government Relations, The Queen's Health Systems

Date: March 18, 2022

Re: Comments on SB 2034 SD1: Relating to Health

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 1,600 affiliated physicians and providers statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on SB 2034 SD1, which would require assessment of patients who are subject to emergency hospitalization, diagnosed with a mental illness or severe substance use disorder, and found to be lacking decisional capacity to determine if a surrogate or guardian needs to be appointed to make appropriate health care decisions for the patient. While we appreciate the intent of the measure to address challenges facing patients with compromised decisional ability in an emergent acute care setting, we would like to highlight the following:

- Currently, under existing statute and practice, if a person with mental illness or substance use disorder lacks decisional capacity, physicians can determine the appropriate level of care or treatment for them. This treatment can include psychiatric admission for a 48-hour period, and/or treatment with medication if the person is diagnosed as dangerous to themselves or others.

We support the use of advanced mental health care directives (HRS 327G) for people with mental illness or substance use disorders to designate an agent to make their healthcare decisions when they lack capacity. The advanced mental health directives represent the patient's wishes before they are in an acute care crisis.

We would note that an equal, or arguably more urgent, need in our state is to increase community resources to provide services for those who are in crisis but may not rise to the level of requiring inpatient care. Queen's continues to work with the Department of Health on the statewide Mental Health Emergency Worker (MHEW) program to strengthen the continuum of care for patients by

effectively screening individuals in crisis and triaging them to receiving sites and services as needed.

Again, we appreciate the intent of this bill to address the challenges facing those in our community with serious mental illness and/or substance abuse disorders. Let us make sure that in our approach to caring for them that we are taking a holistic view of the problem rather than a proximate one. We welcome the opportunity to continue to work with the Committee and stakeholders to further address the issues highlighted in this measure.

Thank you for the opportunity to testify on SB 2034 SD1.

The Institute for Human Services, Inc.
Ending the Cycle of Homelessness

**TO:** Honorable Rep. Ryan I. Yamane
Chair, House Committee on Health, Human Services, & Homelessness

Honorable Rep. Adrian K. Tam
Vice Chair, House Committee on Health, Human Services, & Homelessness

**FROM:** Connie Mitchell MS, APRN, BC, Executive Director
IHS, The Institute for Human Services

**SUBJECT:** S.B. 2034, SD1 – RELATING TO HEALTH.

**HEARING:** March 18, 2022, 9:30 am Via Videoconference, State Capitol Conf. Room 329

**POSITION:** IHS supports the passing of S.B. 2034, SD1 with amendments.

IHS, The Institute for Human Services, has been a critical safety net of our community for over 42 years, providing a full spectrum of services to help those in our community experiencing homelessness and encounters many disabled by mental illness and chronic methamphetamine and alcohol abuse. **IHS stands in support of S.B. 2034, SD1. However, we strongly recommend including amendments as explained below, which can further expand access to mental health treatment and actually result in more persons receiving the psychiatric treatment they need to remain safely in the community.**

In MH-2 proceedings, a court may enter an ex parte order for emergency evaluation and treatment, where there is imminent risk of harm to self or others. But once the crisis is over, if the individual refuses needed ongoing treatment to stabilize further, they are released. Our laws should expressly authorize these MH-2 court orders to include a limited Assisted Community Treatment Order inclusive of, but not limited to, long-acting medication stabilize these persons and help them improve cognition and regain decisional capacity. **Accordingly, we request amendment of this bill to add the following highlighted, underlined and italicized terms to HRS 334-161:**

> (a) A patient who has been committed to a psychiatric facility for involuntary hospitalization or who is in the custody of the director and residing in a psychiatric facility, *or who is the subject to an MH-2 order under section 334-59(a)(2),* may be ordered to receive treatment over the patient's objection, including the administration of *long-acting injectable psychotropic medication or* other medication, if the court, or administrative panel through the administrative authorization process established pursuant to section 334-162, finds that:
> (1) The patient suffers from a physical or mental disease, disorder, or defect;
> (2) The patient is imminently dangerous to self or others;
> (3) The proposed treatment is medically appropriate; and
> (4) After considering less intrusive alternatives, treatment is necessary to forestall the danger posed by the patient.

Conforming amendments should also be made to the MH-2 law, HRS 334-59(a)(2), to clarify that a court's ex parte order may include appropriate treatment if,upon clinical evaluation, is determined to be clinically appropriate and necessary by a licensed psychiatrist, psychologist, or APRN -Rx. Such treatment may include use of long-acting psychotropics.

The amendment would permit a short term of treatment to help stabilize such persons to regain decisional capacity, while allowing the lengthy process of petitioning for guardianship ad litem or assisted community treatment through the established judicial procedures which take a longer time during which the subject identified for treatment typically goes untreated within our current system of care and curtail the burgeoning costs associated with repeated medical, law enforcement and judicial interventions with homeless individuals who simply need treatment. We urge amendment of this bill to add the following provision with specific text to include persons subject to an MH-2 order:

> Notwithstanding any law to the contrary, a patient who is seen in an emergency department or hospitalized on an emergency basis pursuant to this subsection or who is the subject of an MH-2 or MH4 order under HRS 334-59(a)(2), diagnosed with a serious mental illness or substance induced psychosis pursuant to subsection (b), and found to be lacking decisional capacity by a psychiatrist, or by an advanced practice registered nurse having prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization, may be conditionally involuntarily treated for up to thirty days by judicial order.,

We also recommend an amendment to help end this revolving door of human tragedies and senseless costs, and let the administrative panel grant an order for treatment over the patient's objection. The administrative panel could do this if the person meets the criteria in section 334-161(a)(1)-(4), even if the person is not in a psychiatric facility nor under the custody of the director (usually at Hawaii State Hospital), by adding a new section (334-163) regarding "Petition for administrative authorization process", to include the following terms:

> "A psychiatrist or advanced practice registered nurse who holds prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization, who has examined and evaluated a person and concluded that the person meets the four criteria in section 334-161(a)(1)-(4) for treatment over the patient's objection, may file a petition with the director to initiate the administrative authorization process pursuant to HRS 334-162."

When patients refuse behavioral health treatment, they are often released back into the community until the next time they are found endangering themselves or others, and returned to the hospital or arrested and incarcerated. Or worse yet, people realize nothing will happen and the individual is left to languish on the streets until a medical emergency once again prompts an EMS call to transport to the emergency department, or the person dies of medical conditions that go untreated, adding to our death toll in the streets. It is disheartening that we do not yet have a way of treating people who are disabled by their mental illness to receive treatment when they have just demonstrated dangerousness, as described in MH-1 and MH-2.

S.B. 2034, SD1 with these recommended amendments will strike a balance between the need for more timely treatment needed by mentally ill persons disabled by their behavioral health conditions and their right to due process, and allow vulnerable citizens to have greater access to treatment. Thank you.

**HAWAII MEDICAL ASSOCIATION**
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www.hawaiimedicalassociation.org

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, HOMELESSNESS
Rep. Ryan Yamane, Chair
Rep. Adrian K. Tam, Vice Chair

Date: March 18, 2022
From: Hawaii Medical Association
Elizabeth Ann Ignacio MD, Chair, HMA Legislative Committee
Elizabeth England MD, Vice Chair, HMA Legislative Committee

**Re: SB2034 SD1, Mental Illness; Substance Abuse; Imminently Dangerous Standard; Emergency Hospitalization; Assessment**
**Position: Comments**

The Hawaii Medical Association (HMA) appreciates the intent of this bill to facilitate appropriate treatment for patients suffering from severe mental illness. There is a distinct need for increased access to psychiatric care and, in extreme cases, suitable guardianship to ensure that decisions are made in a patient's best interest when they do not have the capacity to do so. However, the HMA has concerns regarding the proposed processes, resources, and workforce.

Solutions must include examination of a robust, wrap-around system to serve our patients. The HMA agrees that additional action is warranted to protect our most vulnerable and severely ill psychiatric patients. The continued comprehensive analyses of best practices, workforce resources and tools necessary to support and implement the meaningful intentions of this measure must remain a priority for the Hawaii Legislature.

Thank you for allowing Hawaii Medical Association to offer comments on this measure.

REFERENCES

ML McCarthy, SL Zeger, R DingCrowding delays treatment and lengthens emergency department length of stay, even among high-acuity patients.Ann Emerg Med2009; 54:492-503.e4https://www.sciencedirect.com/science/article/pii/S019606440900239X.10.1016/j.annemergmed.2009.03.006.19423188.

BA White, PD Biddinger, Y Chang, B Grabowski, S Carignan, DFM Brown. Boarding inpatients in the emergency department increases discharged patient length of stay.J Emerg Med2013; 44:230-235https://www.sciencedirect.com/science/article/pii/S0736467912006464.10.1016/j.jemermed.2012.05.007.22766404.

Kobayashi KJ, Knuesel SJ, White BA, et al. Impact on length of stay of a hospital medicine emergency department boarder service. J Hosp Med. 2019 Nov 20;14:E1-E7. Published Online First November 20, 2019. https://www.journalofhospitalmedicine.com/jhospmed/article/212338/hospital-medicine/impact-length-stay-hospital-medicine-emergency-department. 10.12788/jhm.3337..10.12788/jhm.3337.

**Testimony of Ellen Godbey Carson in Support of SB2034, SD1**
**State House Committee on Housing, Human Services & Homelessness**
**Hearing on Friday, 3/18/2022 at 9:30 a.m.**

**I support SB2034, SD1, and seek amendments** to make it much more effective in providing oversight and life-saving treatment for our most vulnerable homeless residents.

While I write as an individual, I have served as President and director of Institute for Human Services, President of the Hawaii State Bar Association, and as a member of the Church of the Crossroads Peace and Justice Mission Team, spending many years helping Hawaii find better systemic ways to address its dual crises of homelessness and lack of affordable housing.

Over 100 of our homeless residents are dying on our streets each year, at an average age of only 54. Deaths of homeless people continue to climb on Oahu | Honolulu Star-Advertiser In other words, they lose 25-30 years of their expected lifespan due to the very real dangers of living on the street. This bill addresses those most at risk of dying on our streets, people who have severe mental illness or substance abuse and no longer have decisional capacity for life-saving medical intervention and self-preservation. Abandoning these individuals to their "freedom" to live on the streets while severely disabled is a death sentence for many of them. They are someone's son or daughter, parent or loved one, and they deserve the same caring and curative treatment as would be offered to persons with other life-threatening medical conditions.

This bill can help curtail the high costs associated with repeated medical and judicial interventions with our most seriously ill homeless residents, who desperately need more effective treatment options for their conditions. **This bill should be amended** to reflect the prior HB310, HD2 terms allowing use of long-term psychotropic medication and other treatment to help these persons. In addition, this bill should amend HRS 334-59(a)(2) and HRS 334-161(a), to clarify that persons subject to an MH-2 order under section 334-59(a)(2) may be ordered to receive psychotropic and other appropriate medication for a limited time to treat their condition and help them regain their decisional capacity. I defer to IHS for the details of such amendments, as they are on the front lines of care for these persons.

Without such changes, our police, social services, and emergency rooms will continue to incur high costs in shuttling homeless individuals through a system that leaves them dying on our streets and fails to provide effective ways to regain their functionality so they can make productive decisions for themselves.

Additionally, p**lease clean-up the amendments which occurred in SD1**, as the inserted language to allow emergency room physicians and psychologists to do certain determinations of dangerous, is subject to being construed that psychiatrists and APRNS who make those same determinations would not trigger the requirement to assess for the need for a surrogate or guardian. That is not the intended purpose of those amendments, but it is the potential effect. The purpose and language in that paragraph should make clear that the assessment for surrogacy/guardianship should be made whenever any of the 4 types of named health care providers make those determinations.

This bill with these amendments would strike an appropriate balance of legal rights, by allowing a short duration of involuntary treatment for these incapacitated persons, to help stabilize them and allow them to regain their decisional capacity. In so doing, we can help

avoid the very real dangers of irreversible disability and death that these severely ill persons face if they are left on their own on the streets.

Please pass SB2034, SD1 with these amendments.

Respectfully submitted, Ellen Godbey Carson

HAWAIʻI PACIFIC HEALTH
KAPIʻOLANI
PALI MOMI
STRAUB
WILCOX

Friday, March 18, 2022 at 9:30 AM
Via Video Conference; Conference Room 329

**House Committee on Health, Human Services & Homelessness**

To: Representative Ryan Yamane, Chair
Representative Adrian Tam, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

**Re: SB 2034, SD1 – Comments**
**Relating to Health**

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My name is Michael Robinson, and I am the Vice President of Government Relations & Community Affairs at Hawaiʻi Pacific Health. Hawaiʻi Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapiʻolani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawaiʻi.

I am writing to provide COMMENTS on SB 2034, SD1 which would require patients who are seen in a hospital's emergency department or who are hospitalized on an emergency basis, and who are diagnosed with a mental illness or severe substance abuse disorder, and found to be lacking in capacity to have a surrogate appointed to make appropriate health care decisions for the patient.

We appreciate the amendments made to the measure by the prior committee that permit an emergency room physician or psychologist, in addition to a psychiatrist and advance practice registered nurse having prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization, to determine whether a surrogate or guardian is needed to make appropriate health care decisions on behalf of the patient.

HPH recognizes the difficulties in assuring that patients suffering from a mental illness or suffering from a substance abuse disorder receive care which is both necessary and appropriate based on their disorder. Many such patients are seen in the emergency departments of the HPH hospitals. It is well known that a significant underlying challenge to this issue is psychiatric resource capacity resulting in many patients being held in the emergency department for long periods of time—sometimes hours or even days—awaiting psychiatric care. Another difficulty is locating an individual willing to accept the role of surrogate or guardian. The language in the bill attempts to replace the patient's

autonomy with a third party surrogate who has not been legally appointed by a court or appointed by the patient while the patient was of sound mind. Traditionally in emergency care, the provider determines whether the patient has the capacity to make decision at the time they are seen in the emergency department. Emergency room physicians are qualified and trained to evaluate for decisional capacity, and often do for a variety of medical reasons (e.g., delirium, cancer metastases to the brain, TBIs, etc.). If the patient does not have capacity, the provider treats the patient based on the usual standard of care under the theory of implied consent. The requirement of having a surrogate appointed creates an additional delay in the patient receiving needed care and treatment.

We therefore seek clarification on some practical questions & considerations not addressed in this bill:

- Is the individual required to be held until a surrogate is appointed?
- Under what time constraint is the surrogate required to be appointed and by whom?
- What if the surrogate does not agree to a Standard of Care, and declines normal treatment?
- What if the individual has no identifiable friends or family?
- What if the individual does not want a particular family member as a surrogate?

We are also concerned that this bill may be redundant with other laws addressing capacity and psychiatric concerns which already exist. However, HPH is continuing to look into this complex issue and may have additional input.

Thank you for the opportunity to testify.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

Mental Health America of Hawai`i

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Honolulu, Hawaii 96813
**P** 808.521.1846
**mentalhealthhawaii.org**

Helping Hawai'i Live Well

**Testimony to the House Committee on Health, Human Services, & Homeless**
**Thursday, March 18th, 2022, 9:30am**
**Via videoconference**

**SB2034 SD1, Mental Illness; Substance Abuse; Imminently Dangerous Standard; Emergency Hospitalization; Assessment**

Dear Representative Yamane, Chair, and Representative Tam, Vice Chair, and members of the House Committee on Health, Human Services, & Homelessness:

Mental Health America of Hawaii **strongly supports the intent of SB2034 SD1**, which is designed to increase the likelihood of those suffering from serious mental illness or substance misuse will receive timely and appropriate care and treatment.

Mental Health America of Hawai`i (MHAH), an affiliate of the renowned national organization, is a highly regarded 501(c)(3) non-profit organization serving the State of Hawai`i. For nearly 80 years, MHAH has been fulfilling its mission "to promote mental health & wellness through education, advocacy, service, and access to care" through its vision of 'mental wellness for all.' We endeavor to reduce the shame and stigma of mental illness and improve the overall care, treatment, and empowerment of those with or at risk for mental health challenges across all stages of life in Hawai`i.

Furthermore, we are in agreement with the amendments requested by IHS, to HRS 334-161, as follows:

A. A patient who has been committed to a psychiatric facility for involuntary hospitalization or who is in the custody of the director and residing in a psychiatric facility, or who is the subject to an MH-2 order under section 334-59(a)(2) may be ordered to receive treatment over the patient's objection, including the administration of long-acting injectable psychotropic medication or other medication, if the court, or administrative panel through the administrative authorization process established pursuant to section 334-162, finds that:
    1) The patient suffers from a physical or mental disease, disorder, or defect;
    2) The patient is imminently dangerous to self or others;
    3) The proposed treatment is medically appropriate; and
    4) After considering less intrusive alternatives, treatment is necessary to forestall the danger posed by the patient.

Thank you for the opportunity to provide testimony on this important issue.

Respectfully,

Bryan L. Talisayan
Executive Director

**TO:** Honorable Rep. Ryan Yamane
Chair, House Committee on Health, Human Services, & Homelessness

Honorable Rep. Adrian Tam
Vice Chair, House Committee on Health, Human Services, & Homelessness

**FROM:** Marshall Hung

**SUBJECT:** S.B. 2034, SD1 – RELATING TO HEALTH.

**HEARING:** March 18, 2022, 9:30 am Via Videoconference, State Capitol Conf. Room 329

**POSITION:** In support of S.B. 2034, SD1 with amendments.

Marshall Hung supports the intent of S.B. 2034, SD1 with amendments, which are described below. These amendments will expand access to mental health treatment for patients who lack decisional capacity, when deemed appropriate.

***[FIRST AMENDMENT TO ASK FOR]*** In MH-2 proceedings, a court may enter an ex parte order for emergency evaluation and treatment, where there is imminent risk of harm to self or others. But once the crisis is over, if the individual refuses needed ongoing treatment to stabilize further, they are released. Our laws should expressly authorize these MH-2 court orders to include a limited Assisted Community Treatment Order inclusive of, but not limited to, long-acting medication stabilize these persons and help them improve cognition and regain decisional capacity. Accordingly, we request amendment of this bill to add the following highlighted, underlined and italicized terms to HRS 334-161:

> (a) A patient who has been committed to a psychiatric facility for involuntary hospitalization or who is in the custody of the director and residing in a psychiatric facility, *or who is the subject to an MH-2 order under section 334-59(a)(2),* may be ordered to receive treatment over the patient's objection, including the administration of *long-acting injectable psychotropic medication or* other medication, if the court, or administrative panel through the administrative authorization process established pursuant to section 334-162, finds that:
> (1) The patient suffers from a physical or mental disease, disorder, or defect;
> (2) The patient is imminently dangerous to self or others;
> (3) The proposed treatment is medically appropriate; and
> (4) After considering less intrusive alternatives, treatment is necessary to forestall the danger posed by the patient.

The amendment would permit a short term of treatment to help stabilize such persons to regain decisional capacity, while allowing the lengthy process of petitioning for guardianship ad litem or assisted community treatment through the established judicial procedures which take a longer time during which the subject identified for treatment typically goes untreated within our current system of care and curtail the burgeoning costs associated with repeated medical, law enforcement and judicial interventions with homeless individuals who simply need treatment. We urge amendment of this bill to add the following provision with specific text to include persons subject to an MH-2 order:

> Notwithstanding any law to the contrary, a patient who is seen in an emergency department or hospitalized on an emergency basis pursuant to this subsection or who is the subject of an MH-2 or MH4 order under HRS 334-59(a)(2), diagnosed with a serious mental illness or substance induced psychosis pursuant to subsection (b), and found to be lacking decisional capacity by a psychiatrist, or by an advanced practice registered nurse having prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization, may be conditionally involuntarily treated for up to thirty days by judicial order.,

***[SUMMARY OF SUPPORT]*** When patients refuse behavioral health treatment, they are often released back into the community until the next time they are found endangering themselves or others, and returned to the hospital or arrested and incarcerated. Or worse yet, people realize nothing will happen

and the individual is left to languish on the streets until a medical emergency once again prompts an EMS call to transport to the emergency department, or the person dies of medical conditions that go untreated, adding to our death toll in the streets. It is disheartening that we do not yet have a way of treating people who are disabled by their mental illness to receive treatment when they have just demonstrated dangerousness, as described in MH-1 and MH-2.

S.B. 2034, SD1 with these recommended amendments will strike a balance between the need for more timely treatment needed by mentally ill persons disabled by their behavioral health conditions and their right to due process, and allow vulnerable citizens to have greater access to treatment. Thank you.

**SB-2034-SD-1**
Submitted on: 3/17/2022 8:08:44 PM
Testimony for HHH on 3/18/2022 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---|---|---|---|
| Mary Pat Waterhouse | Individual | Support | Written Testimony Only |

Comments:

TO: Chair Ryan I. Yamane,

Vice Chair Adrian K. Tam and

Members of the Committee

House Committee on Health, Human Services and Homelessness

FROM: Mary Pat Waterhouse

SUBJECT: SB 2034 SD1 Relating to Health

HEARING: March 18, 2022, at 9:30 am

POSITION: I support the bill with amendments.

Thank you for taking into consideration my testimony.

The community needs the amendments to the law as written is SB 2034 SD1 because there are times when a patient needs a surrogate decision maker or a guardian and this allows for an assessment of these roles. However, there are times when this bill and the current statutes won't address situations a person with serious mental illness (SMI) and their family face.

I have two family members with serious mental illness. The laws for obtaining help for those with SMI have improved over the years.

Connie Mitchell of IHS offers an additional tool for one with psychosis, the long acting injectables. Since the process of obtaining guardianship and a surrogate decision maker can take months how do we help those that are severely psychotic today? My family member who suffers from schizophrenia may have gotten better sooner if this long acting medicine was around at the time. She may have chosen this medicine or her spouse may have chosen this medicine for her so she could have been less psychotic and enjoyed her child more. It may also have prevented her suicide attempts.

My other family member has bipolar disorder. Initially he didn't want to take medication as he enjoyed the mania. However, he got beat up once when he was very manic and he was also suicidal at times when he was depressed. If there was a long acting medication for bipolar he or the family may have chosen that medication and avoided a lot of suffering.

I encourage you to pass this bill with IHS recommended amendments.